

1-1-1981

Washington report, vol. 10 no.13, May 25, 1981

American Institute of Certified Public Accountants.

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Recommended Citation

American Institute of Certified Public Accountants., "Washington report, vol. 10 no.13, May 25, 1981" (1981). *Newsletters*. 781.
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AICPA *Washington Report*

May 25, 1981, Volume X, Issue 13

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DEFENSE, DEPARTMENT OF

A new position to combat fraud, waste and abuse in Defense programs and operations has been created by Secretary Caspar Weinberger in an effort to secure more efficient management within the Department. Recently appointed to the position of Assistant to the Secretary of Defense for Review and Oversight is Joseph H. Sherick, presently the Deputy Assistant - Program/Budget in the Comptroller's Office. Mr. Sherick's responsibilities will be to develop policy and maintain oversight on criminal investigative programs, as well as to monitor and evaluate the adherence of DOD components to internal audit, contract audit and internal review principles, policies and procedures. For additional information contact the Public Affairs Division at 202/695-0192.

FEDERAL RESERVE BOARD

Regulations D--Reserve Requirements of Depository Institutions and Q--Interest on Deposits have recently been amended by the Board according to a recent Federal Reserve press release. The new rules will subject deposits in denominations of less than \$100,000 maintained at foreign branches to interest rate ceilings and reserve requirements. Under the account arrangement, an institution will establish accounts in denominations of less than \$100,000 through its U.S. offices on behalf of its foreign office. Customers may direct the institution to transfer funds to the institution's foreign office for deposit in an account at the foreign office or direct the foreign office to transfer funds from the foreign office account to the customer's checking account at the U.S. office of the institution. Amounts on deposit in the foreign office account are payable only at the foreign office. The regulation is effective as of 5/14/81. For additional information contact Gilbert Schwartz at 202/452-3625.

PENSION BENEFIT GUARANTY CORPORATION

Certain eligible single employer plans may elect to retain that status even though it would otherwise change to multiemployer under the new definition of that term in ERISA, according to a new final rule issued recently by the PBGC (see the 5/19/81 Fed. Reg., pp. 27330-33). Under the new procedures, a plan may irrevocably elect to be considered a single employer plan for all purposes under ERISA and the Internal Revenue Code. When Congress enacted the Multiemployer Pension Plan Amendments Act of 1980, the definition of "multiemployer plan" was expanded to include plans which were single employer plans under prior law. The election permits some of those plans to continue their single employer plan status. To be eligible, a plan must meet a two part test and must make the election by 9/26/81. For additional information contact James Graham at 202/254-4860.

TREASURY, DEPARTMENT OF

The exclusion of certain conservation cost-sharing payments is the subject of both temporary and proposed regulations recently issued by the IRS (see the 5/21/81 Fed. Reg., pp. 27636 and 27723). The regulations, effective for payments received or accrued after 9/30/79, deal with exclusions under section 126 of the IRC and are subject to recapture under section 1255 of the Code. The text of the temporary regulations serves as the proposed final regulations. Comments and requests for a public hearing are requested by 7/20/81. For additional information contact Phoebe Mix at 202/566-3297.

TREASURY, DEPARTMENT OF

Preliminary statistics from 1977 corporate income tax returns were released recently by the IRS. The statistics, appearing in the Preliminary Report, Statistics of Income -- 1977, Corporation Income Tax Returns, are based on a sample of the 2.2 million returns filed. The report presents data for selected income statement, balance sheet and tax items by industry, with certain items also classified by the size of the corporation's total assets. The report, publication 159, may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at \$2 per copy.

Voluntary withholding of income tax from annuity payments was recently proposed by the IRS (see the 5/19/81 Fed. Reg., pp. 27357-59). Under the proposal, a payee of an annuity could request that the payor of the annuity withhold a specific dollar amount from each payment. The payor would be required to comply with this request until the payee terminates the request. Comments and requests for a public hearing are requested by 7/20/81. For additional information contact Barry Wold at 202/566-3459.

SPECIAL: GRANT REFORM BILL SET FOR FULL SENATE VOTE

S. 807, the "Federal Assistance Improvement Act of 1981", a bill to streamline and simplify the requirements attached to Federal assistance programs, was reported out of the Senate Committee on Governmental Affairs on 5/22/81 with eventual consideration by the full Senate in early June. The mark-up session was chaired by Sen. William Roth (R-DE), Chairman of the Governmental Affairs Committee, and author of the bill. Sen. Roth praised the efforts of Sen. David Durenberger (R-MN) for his expeditious movement of the bill through the Subcommittee on Intergovernmental Relations (see the 5/11/81 Wash. Rpt.) and similarly praised Sen. James Sasser (D-TN) for his handling of a similar bill in the 96th Congress, S. 878. The Committee mark-up reaffirmed an earlier amendment by Sen. Durenberger to strike the word "compliance" from the bill's previous language which called for a "financial and compliance" audit and left intact the following definition of those qualified to conduct the audits: "The term 'public accountants' means certified public accountants, or licensed public accountants licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State."

In a related matter, Sen. James Sasser submitted remarks which appeared in the 5/21/81 Congressional Record (see pp. S5579-82) on "Strengthening Accountability in the Grant System". Included in Sen. Sasser's remarks was the following statement: "Assuring the accountability of State and local governments to the Federal agencies responsible for administering grant programs depends on the use of qualified auditors. By qualified I mean those who have met the most stringent requirements of the accounting profession by becoming certified public accountants." Sen. Sasser also included a 4/28/81 letter from Theodore C. Barreaux, AICPA Vice President-Washington, outlining support for the 'public accountant' definition.

SPECIAL: SENATE BEGINS HEARINGS ON BILL TO AMEND THE FOREIGN CORRUPT PRACTICES ACT

Calling it "most alarming," U.S. Special Trade Representative William E. Brock testified that there is "considerable disagreement" between the AICPA, the American Bar Association and the SEC, as to a firm's responsibilities under the Foreign Corrupt Practices Act (FCPA), at a joint hearing before the Senate Subcommittee on International Finance and Monetary Policy and the Subcom-

mittee on Securities in Washington, D.C., on 5/20/81. Appearing as the Reagan Administration's chief spokesman at the hearing to consider S. 708, a bill introduced by Sen. John Chafee (R-RI), to amend the FCPA, Ambassador Brock indicated general support for the bill, but stated: "We oppose the continuation of the accounting and recordkeeping provisions of the FCPA." Citing recent GAO studies, Ambassador Brock further stated that, "Costly accounting procedures and ambiguities about what is a bribe not only cause U.S. companies to lose foreign orders, but retard competing in the first place." He then suggested that "language be added to the bill (S.708) to provide that any attempts to conceal misappropriation of assets to make prohibited payments be made a criminal offense. Such a provision would apply to all assets, whether material or immaterial and should be outside the securities laws." Other Administration representatives from the Departments of Commerce, Justice and State generally echoed the remarks of Ambassador Brock. Donald L. Scantlebury, Division Director and Chief Accountant of the GAO's Accounting and Financial Management Division, testified that: additional clarification of the present law is needed to avoid unnecessary compliance costs and that the SEC should provide guidance to the business community to assist them in assessing the "reasonableness" of their compliance effort. He also suggested that criminal penalties associated with the accounting provisions be repealed and that the Department of Justice FCPA Review Procedure has failed to address the Act's ambiguities. The GAO supports Section 5 of the bill, which places all enforcement jurisdiction for the antibribery provisions with the Justice Department, and feels there is need for an international antibribery agreement. Senator William Proxmire (D-Wisc), a current member and former Chairman of the Senate Committee on Banking, was critical of Sen. Chafee's bill and challenged the Administration's witnesses to prove that the FCPA had seriously affected the Nation's exports. He also expressed some skepticism about the validity of a recent GAO survey of 250 firms selected at random from a list of the top 1,000 largest U.S. industrial firms, revealing that the FCPA has had a substantial impact on corporate activities.

The hearings reconvened on 5/21/81, to hear testimony from numerous business representatives who generally reaffirmed Sen. Chafee's and the Administration's view that the FCPA represents a substantial export disincentive. Additional hearings will be conducted in mid-June.

For additional information, please contact Jim Kovakas,
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AICPA *Washington Report*

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